



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/539,966	03/31/2000	Stephen D. Macarthur	07072-101001	2142
45456	7590	07/12/2005	EXAMINER	
RICHARD M. SHARKANSKY PO BOX 557 MASHPEE, MA 02649			NGUYEN, MIKE	
			ART UNIT	PAPER NUMBER
			2182	

DATE MAILED: 07/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

87

Office Action Summary

Application No.

09/539,966

Applicant(s)

MACARTHUR, STEPHEN D.

Examiner

Mike Nguyen

Art Unit

2182

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/25/05 & 1/4/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Notices & Remarks

1. Applicant's amendment 10/14/2004 in response to Examiner's Office Action has been reviewed. The following rejections now apply.
2. Claims 1-32 are pending for the examination.

Drawings

3. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

Double Patenting

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 1-32 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-75 of copending Application No. 09/540,828. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to be not grouped "a plurality of first directors" and "a plurality of second directors" into "a plurality of first director boards" and "a plurality of second director boards" in the system interface, or the data storage

Art Unit: 2182

system in order to provide more reliable in transferring data of system interface and to protect against total system failure in the event of a failure in a component or subassembly of the storage system. In addition, it would have been obvious to put "a switch" in either the boards or the message network or both in order to provide same motivation as above.

6. Claims 1-32 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-16 of copending Application No. 09/540,825. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to put "a pair of message network boards having a switch network" the message network in order to provide more reliable in transferring data of system interface and to protect against total system failure in the event of a failure in a component or subassembly of the storage system.

7. Claims 1-32 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-2, 5-6 and 9-10 of U.S. Patent No. 6,651,130 B1. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to be not grouped "a plurality of first directors" and "a plurality of second directors" into "a plurality of first director boards" and "a plurality of second director boards" in the system interface or the data storage system in order to provide more reliable in transferring data of system interface and to protect against total system failure in the event of a failure in a component or subassembly of the storage system. In addition, it would have been obvious to include "a common bus, such as interconnecting the data pipe, the microprocessor, and the controller" in order to provide same motivation as above.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Response to Arguments

8. Applicant's arguments, see pages 18-27, filed on 04/25/2005, with respect to claims 1-31 have been fully considered and are persuasive. The rejection of claims 1-32 has been withdrawn.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Nguyen whose telephone number is 571 272-4153. The examiner can normally be reached on 8:00AM-4:30PM.

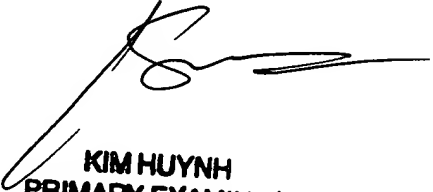
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dov Popovici can be reached on 571 272-4083. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2182

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mike Nguyen
Patent Examiner
Group Art Unit 2182

06/30/2005



KIM HUYNH
PRIMARY EXAMINER
7/6/05